

Note: The following language is ADDED to the version of the NJTA 2004 Standard Supplementary Specifications which existed prior to the issuance of this DCA.

SECTION 108 – MEASUREMENT AND PAYMENT

108.04 PAYMENT FOR COST-PLUS WORK

This Subsection is deleted in its entirety and replaced with the following:

Where the Contractor and the Engineer cannot negotiate an agreement for extra work or for work designated as cost-plus work elsewhere in the Contract Documents, the Chief Engineer may direct and require the Contractor to do such work on a cost-plus basis to be compensated as provided in this Subsection.

The total costs for labor, materials, equipment, bonds, insurance and tax as provided in the following Subparts, together with applicable markups shall constitute full compensation for all direct and indirect costs, including overhead, and profit, and shall be deemed to include all items of expense not specifically designated.

(A) LABOR.

Labor shall mean:

- (1) Actual hourly wages, as set forth and substantiated by the Contractor's Certified Payroll Records, paid to and received by foremen, shop stewards, surveyors, laborers, mechanics and other employees below the rank of superintendent, exclusive of timekeepers, as dictated by union contract and directly employed at the construction site, whether employed by the Contractor or by the subcontractor, subject to the Engineer's authority to determine what employees of any category are "required for Extra Work" and as to the portion of their time allotted to Extra Work.
- (2) A pro rata portion of:
 - (a) Vacation allowances and union dues and assessments which the employer actually pays, as set forth and substantiated by the Contractor's Certified Payroll Records, pursuant to contractual obligation upon the basis of such wages, and
 - (b) Taxes actually paid by the employer (such as Social Security Tax, Federal and State Unemployment Compensation Contributions and State Temporary Disability Benefits Contributions), as set forth and substantiated by the Contractor's Certified Payroll Records, pursuant to law upon the basis of such wages and as shown in the "Notice of Employer Contribution Rates" issued by the New Jersey Department of Labor

- (c) Holiday pay actually paid by the employer during the performance of the work.

"Employees" as used herein shall mean only the employees of one employer.

(B) MATERIALS.

Actual cost of all material used and incorporated into the permanent construction, including freight and delivery charges as shown on original receipted bills. For all materials not incorporated into the permanent construction but necessarily involved in the performance of the work, the Contractor shall receive an amount equal to the actual cost of such materials, less a reasonable allowance for the salvage value of such materials when they are no longer required for the performance of the work except as follows: (Fuels and lubricants consumed by equipment shall be included in the Equipment and Plant described below.)

The Authority is exempt from the Sales and Use Tax pursuant to Subsection 106.10. The Contractor will not be reimbursed for taxes for which the Authority is exempt.

(C) INSURANCE.

Actual additional cost of Workman's Compensation, Contractor's Commercial General Liability Insurance, Owner's Protective Liability Insurance, Contractor's Pollution Liability (CPL) Insurance, Umbrella Liability Insurance, and other types of Insurance which may be required for the performance of the work, provided the cost of such insurance is increased due to an increase in the cost of the work. Calculations for these additional costs shall be submitted to the Engineer prior to the completion of the cost plus work.

Cost of bonds, property damage, liability, and workers compensation insurance premiums; unemployment insurance contributions; and social security taxes shall be supplied to the Engineer prior to the start of cost plus work.

(D) OVERHEAD.

Ten (10) percent of the cost of Labor (A), Materials (B) and Insurance (C), and five (5) percent of the cost of Equipment and Plant (E) and Sublet Work (I) shall be added as full compensation for all general superintendents (other than Foremen), administration and overhead, bonding expenses, general safety items and equipment including personal protection equipment (PPE) and the use of small tools.

(E) EQUIPMENT AND PLANT.

- (1) Contractor Owned Equipment and Plant.

An hourly rate determined as set forth below of all equipment, other than small tools, actually owned by the Contractor and used in the performance of the work, limited to the periods that such equipment is actually required and engaged in the performance of the work.

The Rates shall be derived from the monthly rate, as set forth in the

recommendations of the "Rental Rate Blue Book " published by EquipmentWatch®, (a unit of Penton Media, Inc.) 6151 Powers Ferry Rd. Suite 200, Atlanta, Georgia 30339.

- (a) The ownership hourly rate will be determined by dividing the monthly rate by 176. The weekly, hourly, and daily rates will not be used.
- (b) The number of hours to be paid will be the number of hours that the equipment or plant is actually used on a specific cost-plus activity.
- (c) The current revisions will be used in establishing rates. The current revision applicable to specific cost-plus work is as of the first day of work performed on that cost-plus work and that rate applies throughout the period the cost- plus work is being performed.
- (d) Area adjustment and equipment life adjustment will not be made.
- (e) Overtime shall be charged at one-half the rate indicated in Part (a) above.
- (f) The estimated operating costs per hour will be used for each hour that the equipment or plant is in operation on the work. Such costs do not apply to idle time, regardless of the cause of the idleness.
- (g) Idle time for equipment will not be paid for, except where the equipment has been held on the project site on a standby basis at the direction of the Engineer and, but for this direction, should have left the project site. Such payment will be made at one-half the rate established in Subparagraph (1) above.
- (h) The rates established above include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs, overhaul and maintenance of any kind, depreciation, storage, profit, insurance, all costs (including labor and equipment) of moving equipment or plant to, on, and away from the site. The only exception shall be the cost to move such equipment if the use of such equipment was not required as part of the contract scope at the time the contractor is directed to proceed with cost plus work.
- (i) Operator costs will be paid only as provided in (A) Labor above. There will be no payment for operator cost when the equipment is idle.

All equipment shall, in the opinion of the Engineer, be in good operating condition. Equipment used by the Contractor shall be specifically described and be of suitable size and suitable capacity required for the work to be performed. In the event the Contractor elects to use equipment of a higher rental value than that suitable for the work, payment will be made at the rate applicable to the suitable equipment. The equipment actually used and the suitable equipment paid for will be made a part of the record for cost-plus work. The Engineer will determine the suitability of the equipment. If there is a differential in the rate of pay of the operator of oversize or higher rate equipment, the rate paid for the operator will be that for the suitable equipment.

If a rate is not established in the Rental Rate Blue Book for a particular piece of equipment or plant, the Contractor shall obtain a rate from Equipment Watch for the Engineer's review and approval.

The above provisions apply to the equipment and plant owned directly by the Contractor or by entities which are divisions, affiliates, subsidiaries, or in any other way related to the Contractor or its parent company.

(2) Rented Equipment and Plant

Rented Equipment and Plant. In the event that the Contractor does not own a specific type of equipment or plant and must obtain it by rental, the Contractor shall inform the Resident Engineer of the need to rent the equipment and of the rental rate for that equipment prior to using it on the Work. The Contractor will be paid the actual rental for the equipment for the time that the equipment is actually used to accomplish the work, provided that rate is reasonable as determined by the Engineer. The Contractor shall provide a copy of the paid receipts and canceled checks for the rental expense incurred.

(F) PROFIT.

Ten (10) percent of the cost of Labor (A) and Materials (B) as described above, as full compensation for profit and for all other items of cost and expense to the Contractor not specifically provided for herein.

(G) TOLLS.

Tolls for Authority roadways or any other roadways will not be reimbursed.

(H) SUBLET WORK.

In the event any portion of the work ordered on a cost-plus basis is sublet, the Contractor will be paid for the actual cost of the work performed in accordance with the provisions as specified above.

(I) RECORDS.

The Contractor shall maintain its records in such a manner as to provide a clear distinction between the direct costs of work paid for on a cost-plus basis and the costs of other operations.

From the above records, the Contractor shall furnish to the Engineer the completed Daily Schedule of Labor, Equipment and Material charges reports using the forms provided herein the appendix of the supplementary specifications for each day's work. Said daily cost-plus work reports shall be signed by the Contractor and submitted daily for the Engineer's review and approval.

The Contractor's final cost plus work reports shall be submitted using the schedule of forms provided in Appendix Z herein and shall be listed as follows:

Standardized Schedules for Cost-Plus Work

Schedule A: Summary of Charges

Schedule B: Daily Schedule of Labor Charges

Schedule B-1: Calculation of Hourly Labor Rates

Schedule C: Daily Schedule of Equipment Charges

Schedule C-1: Calculation of Hourly Equipment Rates

Schedule C-2: Calculation of Rented Equipment

Schedule D: Daily Schedule of Material Charges
Schedule E: Daily Schedule of Subcontractor Charges
Schedule F: Inspector Report

Material charges shall be substantiated by valid copies of vendor's invoices. Such invoices shall be submitted with the daily cost-plus work reports, or if not available, they shall be submitted with subsequent daily cost-plus work reports. Should said vendor's invoices not be submitted within 60 days after the date of delivery of the material, or within 15 days after the completion, whichever occurs first, the Authority reserves the right to establish the cost of such materials at the lowest current wholesale prices at which said materials are available, in the quantities concerned, delivered to the location of work.

The Contractor will not be paid until all of the above records are provided to the Authority as outlined above, and reviewed and approved by the Engineer and Authority.

The Chief Engineer may direct a Contractor to perform work which would require the paying of premium time wages not anticipated in the original scope of the project. The premium portion of all wages will not receive a mark-up for profit; however, a 10% overhead allowance will be paid on the premium portion of wages.

The Contractor's cost records pertaining to work paid for on a cost-plus basis shall be open to inspection or audit by representatives of the Authority, during the life of the contract and for a period of not less than three years after acceptance thereof, and the Contractor shall retain such records for that period. Where payment for materials or labor is based on the cost thereof to forces other than the Contractor, the Contractor shall ensure that the cost records of such other forces are open to inspection and audit by representatives of the Authority on the same terms and conditions as the cost records of the Contractor. In case all or a part of such records are not made so available, the Contractor understands and agrees that any items not supported by reason of such unavailability of the records will not be allowed, or if payment therefore has already been made, the Contractor shall refund to the Authority amount so disallowed.

Should the Contractor refuse or fail to prosecute the work as directed, the Chief Engineer may withhold the payment of all current estimates until the Contractor's refusal or failure is eliminated.